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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 DAVID R. VIGIL,

7 Petitioner,

8 v.

9 STATE OF WASHINGTON,

10 Respondent.

Case No. C19-6156-RBL-TLF

ORDER ADOPTING REPORT AND
RECOMMENDATION

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12 THIS MATTER is before the Court on Magistrate Judge Fricke's Report and
13 Recommendation [Dkt. # 10], recommending that the Court deny petitioner's federal *habeas*
14 *corpus* petition without prejudice:

- 15 (1) The Magistrate Judge's report and recommendation is approved and ADOPTED;
16 (2) Petitioner's federal habeas corpus petition (Dkt. 6) is DISMISSED without
17 prejudice for failure to exhaust state court remedies and as premature; and
18 (3) A certificate of appealability is DENIED; and
19 (4) Petitioner's "Motion for Summary Judgment" (Dkt. 9) is DENIED as moot; and

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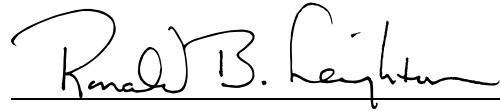
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25 ORDER ADOPTING REPORT AND RECOMMENDATION

1 (5) The Clerk is directed to close this case and to send copies of this Order to
2 petitioner, to Magistrate Judge Theresa L. Fricke and to any other party that has
3 appeared in this action.

4 IT IS SO ORDERED.

5 Dated this 10th day of February, 2020.

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9 Ronald B. Leighton
10 United States District Judge
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